

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR MDL No.: 15-md-02666 (JNE/FLN)
WARMING PRODUCT LIABILITY
LITIGATION

This Document Relates To:

LEROY SUNDQUIST,

Plaintiff,

Civil Action No.: 17-CV-03547-JNE-FLN

**DECLARATION OF DONALD C. GREEN II IN SUPPORT OF
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Donald C. Green II, declare as follows:

1. I am an attorney at Kennedy Hodges, LLP and Counsel for Plaintiff Leroy Sundquist in the above-captioned matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1124] filed on March 1, 2018.
3. Mr. Sundquist contacted Kennedy Hodges, LLP in August of 2015 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Medical records and billing records pertaining to Mr. Sundquist's treatment were obtained by Kennedy Hodges through its third party medical records retrieval company. Those records indicated that a Bair Hugger device was used during his initial orthopedic surgery.

5. This case was filed on August 3, 2017 to comply with the statute of limitations deadline.
6. Phone calls were placed and letters were sent to Mr. Sundquist by staff at Kennedy Hodges in August 2017 in an attempt to reach him and obtain information to complete the Plaintiff Fact Sheet.
7. On August 22, 2017, we learned that Mr. Sundquist had passed away on January 19, 2017. We were not aware of Mr. Sundquist's passing until this date.
8. Mrs. Katy Schmitz, the daughter of Mr. Sundquist, called our office on December 6, 2017. We were unable to obtain the information necessary to complete the Plaintiff Fact Sheet from Mrs. Schmitz at this time.
9. After this conversation, additional phone calls were placed and letters were sent to Mrs. Schmitz by staff at Kennedy Hodges in an attempt to reach her and obtain information to complete the Plaintiff Fact Sheet. These communication attempts were made between January 2018 and March 2018.
10. To date, Kennedy Hodges has not received a response to these phone calls and letters in order to provide the information necessary to complete the Plaintiff Fact Sheet.
11. As we have been unable to obtain the additional information necessary to complete the Plaintiff Fact Sheet for this claim, we have not been able to cure the alleged deficiencies pertaining to the Plaintiff Fact Sheet that has been submitted for this case.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing
is true and correct.

March 8, 2018

/s/ Donald C. Green II
Donald C. Green II